

## REMARKS

This RCE Patent Application is filed in response to the final rejection, on April 14, 2003, of all then-pending claims present in the immediate predecessor U.S. Patent Application.

In this RCE application, and by virtue of entry of the present Preliminary Amendment, claims 1, 2, 4-6, inclusive, 12 and 13 are to be cancelled without prejudice, and new claim 20 is to be added. Accordingly, with entry of this Amendment, only new claim 20 is presented for examination.

In the long and involved prior history of this RCE application, applicants and the Examiner have held an extensive cross-exchange regarding patentability and the several prior art patents which the Examiner has applied in different ways under 35 USC § 103 to reject all former claims presented in this case. To avoid unnecessary repetition in this Preliminary Amendment, applicants simply assert here that all of their prior arguments urging patentability are deemed to be included in the Remarks within this Amendment. Those prior arguments specifically point out certain important fundamental flaws in the Examiner's proposed rejection-combination of references. These flaws can be characterized as possessing two important facets, the first of which is that there is absolutely no leading anywhere to be found in the cited art which would cause one to be guided toward attempting to create the combination proposed by the Examiner. The second is that the principal reference, Hoffman, possesses, and literally announces, a strikingly strident warning against considering any modification of the Hoffman reference which would be required, in accordance with the Examiner's proposed thinking, to effect the asserted rejection combination proposed by the Examiner. Simply stated, Hoffman warns definitively against producing the very

kind of structural change in the Hoffman structure which the Examiner has chosen to perform for the purpose of rejecting applicants' claim(s) to invention.

In recent telephone conversations with the Examiner and the Examiner's supervisor regarding this case, applicants' undersigned attorney pointed out that there is importance in the fact that the workpiece-gripping teeth that are proposed by applicants in their invention, and that are clearly recited very specifically in new claim 20, extend as a single, axis-circumsurrounding, continuous row of teeth distributed about (generally centrally about) the long axis of any attached, associated measuring tape.

With this arrangement, a user of applicants' invention can make secure gripping contact with a workpiece at any point around the axis of an attached measuring tape. No matter where, around such an axis, contact is established with a tooth in applicants' device, the gripping behavior is essentially always the same. This is the case because of the fact that all teeth in the proposed single, circular row are nearly equidistant from the long axis of an associated tape.

One important functional consequence of this is that, for a given tension applied to a tape during measurement, a very sure grip will occur, which will be consistently forceful no matter where, around the row of teeth, that grip is established. If, during measurement, the angular disposition of the long axis of a tape should shift somewhat because of positional readjustment of the user of the tape, the single row of gripping teeth will effectively roll along the gripped workpiece surface to continue effectively to grip that surface in the same fashion as if no angular shift in the tape axis had taken place. In other words, with any slight angular disposition between the direction of intended measurement and the actual direction of the long axis of a measuring

tape, applicants' single row of teeth will effectively grip the workpiece surface at a very small, nearly point-like region distributed somewhere along the length of the annular continuum of teeth, and on the away-facing surface of the workpiece involved. This small, point-like region of contact will shift slightly rollingly as needed to accommodate any angular change introduced into the tape's long axis - keeping the gripping function substantially unchanged.

Thinking about this important point, and now considering the cited and applied references, the Examiner has aptly noted in the last paragraph on page two of the most recent Office Action:

"Hoffman *does not disclose* (Emphasis Added) the gripper body having a perimeter structure formed of a row of plural, spaced, perimeter-distributed, workpiece surface-gripping tooth-like projection elements, the elements projecting from the plane of the body toward the direction of a joined tape and adapted for contacting and gripping the far surface of a workpiece."

This statement by the Examiner presents a clear and correct recognition that the Hoffman reference is significantly lacking any teaching or suggestion of a claimed important characteristic of applicants' invention. Applicants fully agree with this quoted statement.

Additionally, and with regard to the cited and applied Richardson reference which the Examiner proposes using to modify Hoffman, the Examiner states at the end of the first full paragraph on page three in the last Office Action:

"Richardson teaches that it is beneficial to place a row of tooth-like projection elements along the workpiece-contacting *surface* (Emphasis Added) of a measuring tape gripper body in order to firmly grip an article to be measured to facilitate taking measurements."

Here, it is very clear that the Examiner recognizes that the Richardson reference

teaches that the entire workpiece-facing surface of a workpiece-gripping device is formed throughout as an *all-over* distribution of teeth. By way of sharp contrast, applicants propose and claim a *single perimeter row* of teeth, rather than an *allover*, facial covering of teeth. A Richardson-approach modification of the Hoffman device, made in spite of the above-mentioned Hoffman warning against modification, would create a structure incapable of matching the performance of applicants' single, circular row of teeth. Such an arrangement, which would not only be extremely impractical in nature, would dramatically change the gripping functionality which is offered, as above explained, by applicants' arrangement. Were such an *allover* surface array of teeth to be employed, various angular shifts in the long axis of a tape would cause gripping action to shift dramatically and nearly instantly to the potentially fragile angular edge corner of a workpiece, where workpiece damage could occur, and the surety of a grip could vanish.

It is for this reason, that applicants urge that the proposed and claimed circumsurrounding single-row distribution of teeth plays an important role in the utility and effectiveness of applicants' invention.

Accordingly, applicants strongly assert that newly presented claim 20 is constructed in such a fashion that key features which distinguish applicants' invention from the prior art are clearly set forth in this claim. Applicants strongly urge that this new claim 20 is plainly distinguishable over the art of record, and is patentable. Accordingly, favorable reconsideration of this continuing application, and allowance of the now single claim presented in this application, are respectfully solicited. If the Examiner has any questions regarding the amendment or remarks, the Examiner is invited to contact Attorney-of-Record Jon M. Dickinson, Esq., at 503-504-2271.

**Provisional Request for Extension of time in Which to Respond**

Should this response be deemed to be untimely, Applicants hereby request an extension of time under 37 C.F.R. § 1.136. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any over-payment to Account No. 22-0258.

Customer Number

Respectfully Submitted,



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I hereby certify that the attached PRELIMINARY AMENDMENT IN SUPPORT OF RCE UNDER 37 C.F.R. § 1.111 and a check in the amount of \$ 375.00 are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to:

MS RCE

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